

COMMISSIONER OLSON Revised PROPOSED AMENDMENT NO. 3

DATE PREPARED: October 27, 2021

COMPANY: Arizona Public Service Company

DOCKET NO.: E-01345A-19-0236

AGENDA ITEM NO. 18

OPEN MEETING DATE: October 26-27, 2021

Purpose: This amendment makes clear that regardless of the status of the Commission's Retail Electric Competition Rules, competitive energy providers are statutorily authorized to apply for a CC&N for electric generation service, and that the Commission will review and approve of these applications in a timely fashion, provided the applicant is fit and proper to provide electric service.

Proposed changes are to the corrected ROO docketed on September 20, 2021.

This revised amendment adds one sentence to the end of the paragraph.

Page 425, Line 4

INSERT new paragraph

However, our consideration of retail electric competition in another docket does not preclude competitive energy providers from applying for a Certificate of Convenience and Necessity ("CC&N") for electric generation service. The legislature has spoken clearly on retail electric competition: "It is the public policy of this state that a competitive market shall exist in the sale of electric generation service" A.R.S. § 40-202(B). In addition, the Arizona Supreme Court recently ruled that outside of the Commission's exclusive and plenary ratemaking authority, the legislature's authority is paramount. *Johnson Utilities, L.L.C. v. Arizona Corp. Comm'n*, 249 Ariz. 215 at ¶¶ 28, 30, and 59 (2020). Further, the court limited the Commission's ratemaking authority to "ascertaining the 'fair value' of PSCs and prescribing classifications, rates, and charges." *Id.* at ¶ 50 (citing Ariz. Const. art. 15, §§ 3, 13, and 14). Therefore, regardless of the status of our Retail Electric Competition Rules, competitive energy providers are statutorily authorized to apply for a CC&N for electric generation service and the Commission is statutorily obligated to award such CC&Ns to any applicant that is fit and proper to provide electric services in our state. Therefore, the Commission hereby acknowledges this obligation and states its intention to review and approve such CC&Ns in a timely fashion. The Commission also expresses its intent to evaluate microgrid pilot programs as additional alternatives for ratepayers.

Make all conforming changes***

THIS AMENDMENT:		
<input type="checkbox"/> Passed	<input type="checkbox"/> Passed as amended by _____	
<input type="checkbox"/> Failed	<input type="checkbox"/> Not Offered	<input type="checkbox"/> Withdrawn